

## SENATE BILL No. 162

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-67; IC 31-17-2.

**Synopsis:** Joint legal custody. Establishes a rebuttable presumption that an award of joint legal custody is in the best interest of a child in dissolution of marriage cases. (Under current law an award of joint legal custody is discretionary with the court.) Provides that if a party seeks to rebut the presumption that joint legal custody is in the child's best interest, the court shall consider various factors to determine whether the presumption for joint legal custody is rebutted. Makes conforming changes. Repeals a provision and relocates its language within the Indiana Code.

**Effective:** July 1, 2008.

**Young R**

January 8, 2008, read first time and referred to Committee on Judiciary.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 162

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Joint legal  
3       custody", for purposes of IC 31-17-2-13 ~~IC 31-17-2-14~~, and  
4       IC 31-17-2-15, means that the persons awarded joint custody will share  
5       authority and responsibility for the major decisions concerning the  
6       child's upbringing, including the child's education, health care, and  
7       religious training.

8       **(b) The term does not include the award of physical custody of**  
9       **the child.**

10       SECTION 2. IC 31-17-2-8 IS AMENDED TO READ AS  
11       FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The court shall  
12       determine custody and enter a custody order in accordance with the  
13       best interests of the child. **Except as provided in section 13 of this**  
14       **chapter**, in determining the best interests of the child there is no  
15       presumption favoring either parent. The court shall consider all  
16       relevant factors, including the following:

17       (1) The age and sex of the child.



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- (2) The wishes of the child's parent or parents.
- (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- (4) The interaction and interrelationship of the child with:
  - (A) the child's parent or parents;
  - (B) the child's sibling; and
  - (C) any other person who may significantly affect the child's best interests.
- (5) The child's adjustment to the child's:
  - (A) home;
  - (B) school; and
  - (C) community.
- (6) The mental and physical health of all individuals involved.
- (7) Evidence of a pattern of domestic or family violence by either parent.
- (8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.

SECTION 3. IC 31-17-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. ~~The court may award legal custody of a child jointly if the court finds that~~ **There is a rebuttable presumption that** an award of joint legal custody ~~would be~~ **is** in the best interest of the child.

SECTION 4. IC 31-17-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. ~~In determining whether an award of joint legal custody~~ **If a party seeks to rebut the presumption** under section 13 of this chapter ~~would be that an award of joint legal custody is~~ in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that ~~the persons awarded joint custody have agreed to an award of joint legal custody. The court shall also consider~~ **the following factors:**

- (1) The fitness and suitability of each of the persons **who would be** awarded joint legal custody.
- (2) Whether the persons **who would be** awarded joint legal custody are willing and able to communicate and cooperate in advancing the child's welfare.
- (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age. ~~and~~
- (4) Whether the child has established a close and beneficial relationship with both of the persons **who would be** awarded joint legal custody.

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- 1 (5) Whether the persons **who would be** awarded joint **legal**  
2 custody:  
3 (A) live in close proximity to each other; and  
4 (B) plan to continue to do so. ~~and~~  
5 (6) The nature of the physical and emotional environment in the  
6 home of each of the persons **who would be** awarded joint **legal**  
7 custody.  
8 SECTION 5. IC 31-17-2-14 IS REPEALED [EFFECTIVE JULY 1,  
9 2008].

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